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April 2, 2008

Hon. William C. Griesbach
United States District Court for the Eastern
District of Wisconsin
125 South Jefferson Street
Green Bay, WI 54305-2490

Re: *Appleton Papers Inc. v. George Whiting Paper Co.*, No. 2:08-cv-16-WCG

Dear Judge Griesbach:

This firm represents defendant P.H. Glatfelter Co. ("Glatfelter") in this matter. On March 21, J. Ric Gass, counsel for plaintiff NCR Corporation ("NCR"), filed a five-page letter, two-page glossary, and a map in what the letter recites was a response to the Court's request for background information on the case made at a status conference on February 6. [Doc. No. 54.] Glatfelter believes that letter to mischaracterize the "background" both by what Mr. Gass has said and implied, but also by what has been omitted. Glatfelter respectfully suggests that an appropriate procedure for providing background to the Court in a less unilateral way be taken up at the conference scheduled for April 23, 2008.

By way of further procedural history, I note that as of the February 6 conference, plaintiffs had requested and obtained leave to join Glatfelter as a defendant, *see* Order of Jan. 28, 2008 [Doc. No. 24], but had neither done so nor provided notice of the status conference suggesting that prospective defendants attend; Glatfelter was not joined to this action until February 8. [Doc. No. 35.] Accordingly, Glatfelter was not represented at the conference. I have no reason to doubt Mr. Gass' representation that the Court made a request at the conference, but that request did not rise to the level of inclusion in the Court's Order of February 6 [Doc. No. 31]. So, Glatfelter had no reason to anticipate that plaintiffs would be making an unorthodox factual filing at this time.

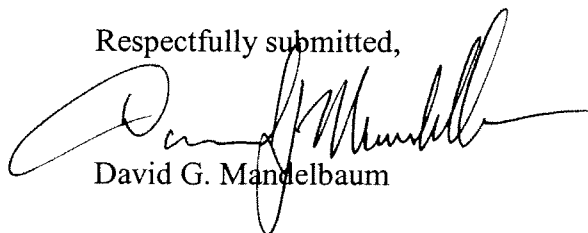
Glatfelter does not object to providing background facts to the Court as a means of streamlining disposition of this case. But Glatfelter does object to NCR's failure even to

attempt to do so by stipulation. This is not a new case. The Wisconsin Department of Natural Resources informally notified Glatfelter that the State wished Glatfelter to begin studying and cleaning up sediments in the Fox River in early 1991, at which point Glatfelter engaged me on the matter. Glatfelter gave notice to NCR of NCR's responsibility no later than April 1993. Mr. Schlickman was engaged on behalf of NCR no later than 1996. He and his firm and I and my firm have been working together on this matter since. The parties have sharp disputes in this case, but lawyers who have been working together for more than a decade should have been able to agree on what is agreed and to highlight the material disputes. Nevertheless, NCR did not contact Glatfelter prior to filing Mr. Gass' letter. Accordingly, even though Mr. Gass' letter purports to be objective and non-controversial, Mr. Gass cannot have had any reason to make that representation.

Glatfelter strongly believes that the existence of sharp disputes with significant financial consequences is no reason for uncooperative dispute resolution. The parties need a judge to resolve a number of questions. Nevertheless, both the parties and the Court will benefit if the issues that require judicial resolution are framed with courtesy, efficiency, and intellectual honesty.

For these reasons, Glatfelter respectfully requests that the Court direct an appropriate procedure to provide background less unilaterally than NCR's letter of March 21, 2008. The Court might direct the parties to develop a stipulated set of background facts. Alternatively, the Court might direct the defendants to submit a counter-statement of background facts. The conference already scheduled for April 23, 2008, may offer a convenient opportunity to explore which option would best serve the Court's needs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David G. Mandelbaum', is written over the typed name. The signature is fluid and cursive.

David G. Mandelbaum

DGM/

cc: All Counsel (service list attached)
Thomas G. Jackson, Esquire
C.L. Missimer, Ph.D.

CERTIFICATE OF SERVICE

I hereby certify that, on this 2nd day of April, 2008, a true and correct copy of the foregoing letter to the Honorable William C. Griesbach was filed electronically via the Electronic Court Filing system and is available for viewing and downloading.

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s/ David G. Mandelbaum

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